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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO.5639 OF 2016

Ram Dashrath Korade,
Age: 26 years, Occ: Labour,
R/o. Mochipimpalgaon,
Tq. & Dist. Beed. ..APPLICANT

VERSUS

The State of Maharashtra,
Through the Police Inspector,
Pimpalner Police Station,
Tq. & District Beed. ..RESPONDENT

Mr R.G. Hange, Advocate for applicant;
Mr S.D. Ghayal, Addl. Public Prosecutor for
respondent

CORAM : A.S. CHANDURKAR, J.

DATE : 23rd NOVEMBER, 2016

ORAL ORDER :

Heard.

2. The applicant seeks his release on bail, pursuant to his arrest on 5th June, 2016 in connection with Crime No. 90 of 2016 registered at Pimpalner Police Station, District Beed, for offences punishable under Sections 363, 366, 366-A and 376 of the Indian Penal Code and under Sections

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4 and 6 of the Protection of Children from Sexual Offences Act, 2012.

3. The report in question has been lodged by the mother of the prosecutrix, in which it has been stated that her daughter had left the house on 31st May, 2016, for which, the report came to lodged for offence punishable under Section 363 of the Indian Penal Code. Subsequently, on the basis of statement of her daughter, it was revealed that she was having affair with one Mahesh Galdhar since prior to four to five months. When she had left her house, on the next day, present applicant at about 9-00 a.m. made a phone call to her and told her that police are searching you and asked her to meet him. Thereafter, the applicant took her to the place of his grandmother and tried to establish physical relations with her. The said daughter, however, opposed the same and left the place. On next day, she was located by the police and thereafter taken to her house, After registering offence under the aforesaid Sections, the applicant

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came to be arrested on 5th June, 2016.

4. It is submitted by learned Counsel for the applicant that as per version of the prosecutrix, she was having affair with one Mahesh Galdar and main allegation against the applicant was that he had attempted to establish physical relations with her. He submitted that the statement of the witnesses recorded do not indicate occurrence of any such incident and in that regard he submitted that present applicant has been unnecessarily implicated in the said offence.

5. The application is opposed by the learned Additional Public Prosecutor by relying upon the documents filed on record. He has also referred to the police papers and statements made under Section 164 of the Code of Criminal Procedure. According to him, the date of birth of prosecutrix was 7th August, 2001 and hence she was a child when the alleged incident took place. He has also referred to the documents with regard to the medical

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examination of the prosecutrix.

6. Perused the police papers as well as the statements recorded by the prosecution. Same indicate that the prosecutrix had affair with one Mahesh Galdhar since prior to four to five months of the alleged incident. The statement of Ajay Korade recorded under Section 164 of the Code of Criminal Procedure indicates that he was present with the applicant and prosecutrix. He denied the occurrence of alleged incident. The statement of the prosecutrix does not refer to the presence of said Ajay Korade and medical examination of the prosecutrix done four days after the incident does not indicate any injuries. Considering the statement of the prosecutrix that she had physical relations with said Mahesh Galdhar since last four to five months and the fact that presence of Ajay Korade is not referred to by the prosecutrix, the case for release of the applicant on bail is made out subject to conditions.

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7. In view of aforesaid, the applicant is directed to be released on bail, in connection with Crime No. 90 of 2016 registered at Pimpalner Police Station, District Beed, for offences punishable under Sections 363, 366, 366-A and 376 of the Indian Penal Code and under Sections 4 and 6 of the Protection of Children from Sexual Offences Act, 2012, on his furnishing P.R. bond of Rs.15,000/- with one surety in the like amount.

The applicant shall not enter the limits of village Mochipimpalgaon, Taluka and District Beed till conclusion of the trial before the Court of the learned Sessions Judge, Beed.

The applicant shall attend the Court of learned Sessions Judge, Beed on 10th of every month or as per the directions of the learned Sessions Judge.

The applicant shall not take any steps to influence the prosecution witnesses.

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8. It is clarified that the observations made in this order are only for the purpose of considering present bail application.

9. Criminal Application is allowed on above terms and same is disposed of.

(A.S. CHANDURKAR, J.)

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